

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOSH DONLEY,

Plaintiff,

V.

RONALD FRAKER and SGT. T.
SCHNEIDER,

Defendants.

No. C11-5995 RBL/KLS

ORDER RE: PLAINTIFF'S MOTION "TO SHOW CAUSE FOR A PRELIMINARY INJUNCTION"

This civil rights action has been referred to United States Magistrate Judge Karen L.

Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. Plaintiff Josh Donley is presently confined at the Clallam Bay Corrections Center in Clallam Bay, Washington. Under separate orders, Plaintiff has been granted leave to proceed *in forma pauperis* and the Court has directed service of his complaint. ECF Nos. 4 and 8.

At the time he filed his complaint, Plaintiff also filed a Memorandum in Support of Motion to Show Cause, Declaration in Support of Show Cause and Proposed Order to Show Cause for Preliminary Injunction. ECF Nos. 5, 6, and 7. In these pleadings, Plaintiff requests a preliminary injunction enjoining Defendants from denying and confiscating legal books that are sent to him from vendors. ECF No. 7. It is unclear whether Plaintiff intended to have this motion heard as a motion for temporary relief at this time. Defendants have not been served with this motion.

1 Under Federal Rule of Civil Procedure 65(a)(1), no preliminary injunction can be issued
2 without notice to the opposing party. A temporary restraining order may be granted under Rule
3 65(b), but only if:

- 4 1) it clearly appears from specific facts shown by affidavit or by the verified
5 complaint that immediate and irreparable injury, loss or damage will result
6 to the applicant before the adverse party or that party's attorney can be
heard in opposition, and
- 7 2) the [applicant] certifies to the court in writing the efforts, if any, which
8 have been made to give the notice and the reasons supporting the claim
that notice should not be required.

9 Plaintiff is advised that if he seeks relief from the Court, he must set forth his requests in
10 a pleading or motion and that he must serve copies of all pleadings and motions on all
11 Defendants through their counsel of record pursuant to Fed.R.Civ.P. 5(b)(1). Pursuant to
12 Fed.R.Civ.P. 5(d), Plaintiff is also required to attach and file a certificate of service stating that
13 he has served all Defendants with the pleading and/or motion every time he files and serves a
14 document. Plaintiff is also advised that unless otherwise ordered by the Court, all motions will
15 be decided by the court without oral argument and parties are not to appear on the date the
16 motion is noted unless directed by the court. CR 7(b)(4).

17 Accordingly, the Court **ORDERS:**

18 1) Plaintiff may file his motion for temporary restraining order and serve it on all
19 Defendants. Plaintiff must also file a certificate of service stating he has served all Defendants,
20 through their counsel, with the motion. The motion may be scheduled on the Court's calendar
21 for the third Friday after filing and service of the motion.

1 2) The Clerk is directed to send copies of this Order to Plaintiff.

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3 **DATED** this 3rd day of January, 2012.

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6 Karen L. Strombom
7 United States Magistrate Judge